

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Aqua Illinois, Inc.	:	
	:	
Proposed general increase in	:	11-0436
water and sewer rates.	:	

PROPOSED ORDER ON REHEARING

By the Commission:

In this proceeding, the Illinois Commerce Commission ("Commission") entered an Order on February 16, 2012 ("Order") approving new water and sewer rates for Aqua Illinois, Inc. ("Aqua").

On April 4 2012, the Commission granted the Application for Rehearing of Viscofan USA, Inc. ("Viscofan") filed March 16, 2012, for the purpose of allowing Viscofan to offer its updated analysis into the record, and allowing other Parties to respond to it.

At the hearings on rehearing, appearances were entered and testimony was presented by Viscofan, Aqua, the Commission Staff ("Staff") and the People of the State of Illinois by the Attorney General of the State of Illinois ("People" or "AG"). At the conclusion of the hearings on rehearing, the record was marked "Heard and Taken." Initial briefs ("IBs") and reply briefs ("RBs") on rehearing were filed by Viscofan, Aqua, the Staff and the AG. A Proposed Order was issued by the Administrative Law Judge.

Order Entered February 16, 2012

Aqua provides water service to Viscofan's Danville facility. Viscofan is Aqua's largest water customer, and the only customer taking service under its Large Industrial Customer class. As of the time the Order was entered on February 16, 2012, Viscofan was served at a discounted rate, that is, at a rate set at 49.7% of cost of service in Docket No. 04-0442, pursuant to a four-year contract as provided in Aqua's tariffs.

During the original proceeding, Aqua proposed an increase in the tariff rate to Viscofan of 13.75%. The AG suggested an increase of approximately 35.1% based on the Company's original revenue requirement proposal, while Viscofan proposed a maximum increase of 5%. Viscofan calculated that its rates would increase by 20% under Staff's proposal. (Staff Ex. 14.0 at 2; Order at 48-49)

The Order found, on page 51, "Of the various proposals of record...the Commission finds that the Staff recommendation strikes the best balance of interests and should be adopted. Staff's proposal continues to offer a significant discount to

Viscofan -- in order to provide an incentive to remain on the Aqua system rather than pursuing a competitive alternative -- while slightly reducing the 'subsidy' imposed on other customers by recovering revenues from Viscofan that are intended to equal 52.95% of Viscofan's cost of service, up from 49.7% approved in Docket No. 04-0442."

The Order added, "As Viscofan, Aqua and Staff have asserted, retaining Viscofan as a customer provides benefits to other customers, because Viscofan provides a significant contribution toward costs that would otherwise be borne by other customers."

The Commission also reviewed the positions of the parties regarding the length of the water service agreement with Viscofan. The Commission found, "While agreeing with AG witness Mr. Rubin that some multi-year commitment is appropriate, the Commission believes that the record supports a continuation of the four-year term contained in the provisions of Aqua's current tariffs."

On April 12, 2012, Viscofan entered into another four-year contract with Aqua to succeed the four-year contract that was expiring.

Updated Analysis on Rehearing

On rehearing, Viscofan presented an updated analysis of the "economics" and timeline for constructing its own water system. The updated analysis was prepared in 2012. (Viscofan Exs. 1.0-RH, and 1.1 through 1.5-RH) Among other things, it contained cost estimates and other information from Industrial Technology Group of Henneman Engineering, dated April 30, 2012.

Mr. Daniel Schenck, Plant Manager of Viscofan's Danville facility, testified that the cost for installation of water pumping and treatment facilities for purposes of serving water from the potential well property to the Viscofan plant is \$3,066,965. (Viscofan Ex. 1.0-RH at 6) He said engineering and construction would take under one year to complete. The operating cost for treatment of the water to be pumped and used is estimated to be \$0.25 per 1,000 gallons of water. (Viscofan Ex. 1.0-RH at 6-7; Viscofan Ex. 1.4-RH)

Viscofan also calculated the payback period for the potential well and associated investment. As indicated above, the capital cost is estimated at \$3,066,965. Under the current Aqua Illinois rate, the avoidable annual utility cost, should Viscofan disconnect from Aqua, is estimated to be \$708,000 per year. As shown on Exhibit 1.4-RH, operating costs are estimated to be \$92,000 per year. Thus, the annual net savings to Viscofan is estimated to be \$616,000 per year (\$708,000 minus \$92,000), and the simple payback is estimated at 4.97 years (\$3,066,965 ÷ \$616,000). (Viscofan Ex. 1.0-RH at 7)

Mr. Schenck also testified that Viscofan has completed a hydrology study showing ample availability of water; has property with a test well already constructed;

and controls right-of-way for a main water supply line from the well area to the Plant. (Viscofan Ex. 1.0-RH at 4) It is noted that this information was provided in the original proceeding.

He stated that unless the Aqua rate is made “more viable and conducive to Viscofan remaining on the system,” Viscofan “will have approximately four years to design, construct, test and begin using its own water system and will most assuredly be forced to disconnect from the Aqua system, either before or at the end of the new contract term.” (Viscofan Ex. 1.0-RH at 3)

He further stated, “Should the Large General Service rate remain as approved in the Final Order, Viscofan finds this payback period to be sufficient to warrant construction of the water treatment facility.” (Viscofan Ex. 1.0-RH at 7)

Regarding Viscofan’s analysis, AG witness Mr. Rubin correctly observed that Viscofan’s estimates did not include a cost of standby water service from Aqua. He stated that inclusion of the cost of this service in the analysis could make the project uneconomical. (AG Ex. 3.0 at 3)

In response, Mr. Schenck testified that Viscofan would not require standby service from Aqua. He said Viscofan’s system design includes the installation of two water wells, minimizing the concern for loss of water service. He further stated that Viscofan owns two 240,000-gallon tanks at the plant, allowing for a buffer in the event of interruption in supply. (Viscofan Ex. 2.0-RH at 2)

Based on the record, it appears to the Commission that Viscofan’s exclusion of standby service costs from the updated analysis was reasonable.

Impact on Aqua Customers

As noted on page 50 of the Order, Viscofan asserted that if it were to leave the system, Aqua and its customers would be losing \$576,768 per year of Viscofan’s contribution to fixed costs, thus exposing consumers to even higher rates. (Viscofan Ex. 2.0 at 5-6)

On rehearing, the Staff witness testified that reducing revenue requirement by that amount, \$576,768, would increase the water bill for typical residential customers by 3.72% per month. (Staff Ex. 14.0 at 5)

In response, Viscofan witness Mr. Stephens testified that it is the variable costs that can be avoided by Viscofan leaving the system -- not the non-variable costs -- and that the \$576,768 estimate to which Staff refers is actually the amount of revenue requirement that will continue to exist, but will be spread to other customers, if Viscofan leaves the system. (Viscofan Ex. 3.0-RH at 5)

According to Mr. Stephens, “Reducing the increase to Viscofan from 20% to 4.9% would require some revenue responsibility to be spread to other customers. However, the amount is estimated to be approximately \$91,000 per year, which is much less than the \$576,768 in annual non-variable cost contribution that will be forced on other customers if Viscofan leaves.” (*Id.* at 6)

Staff Recommendation

In Staff’s view, the Commission should not change the 20% increase in Large Industrial Class rates granted in the Commission’s Order on February 16, 2012 because it results in a moderate increase in Viscofan’s contribution to cover its cost of service, to 52.95%, while slightly reducing the subsidy that other rate classes have been providing to Viscofan. (Staff IB on reh. at 3; Staff Ex. 14.0 at 8; Order, Docket No. 11-0436, Feb 16, 2012 at 51) As such, Staff argues, the 20% increase granted in the Commission’s Order on February 16, 2012 is consistent with its Order in Docket No. 04-0442, where the Commission indicated that Viscofan should begin to pay a greater portion of its cost of service to address its declining contribution toward its cost of service, while not being so large as to induce rate shock. (Staff IB on reh. at 3; Order, Docket No. 04-0442, April 20, 2005 at 54)

According to Staff, if the Commission does reduce the 20% increase to Aqua’s Large General Service rate, it should be reduced to no less than 14.11% in order to maintain the 49.70% cost of service percentage that Aqua recovered from Viscofan as approved by the Commission in Docket No. 04-0442. (Staff Ex. 14.0 at 3)

AG Position

AG witness Mr. Rubin testified that Aqua and Viscofan should consider a “long-term (10 years or more)” contract that provides both parties with substantial certainty about the rates that would be charged over an extended period of time. (AG Ex. 3.0 at 4)

He described a seven-year contract entered into by an Aqua affiliate in Pennsylvania and a customer with a competitive water supply option. (*Id.* at 5-6)

In its brief, the AG “request[s] that no changes be made to the tariffed rates approved in the Final Order in this docket, and that the Commission require Aqua to attempt to negotiate a long-term contract with Viscofan to address the costs and risks associated with serving Viscofan.” (AG IB on reh. at 5) The AG believes a longer contract would provide benefits, including stability.

Commission Analysis and Conclusions

On rehearing, Viscofan presented an updated analysis of the “economics” and timeline for constructing its own water system. The updated analysis was prepared in 2012.

Although the four-year contract is in effect until 2016, if Viscofan does undertake construction of its own system during that period, there would seem to be little chance of retaining them as a customer of Aqua.

Based on the evidence as updated on rehearing, it now appears that if the 20% increase is left in place, it is more likely than not that Viscofan will undertake construction of its own system. Staff and AG do not appear to specifically contend otherwise, although they do oppose any reduction in the 20% increase as noted above.

If Viscofan does depart the system in favor of its own competitive supply option, other customers in the Consolidated Division containing the former Vermilion District would be adversely affected because Viscofan provides a significant contribution toward costs that would otherwise be borne by other customers.

While the Commission agrees with Staff that cost of service is an important consideration, the Commission believes it should be considered in the broader context of the Viscofan issue, which also involves, among other factors, the impacts on customers that would occur if Viscofan were to leave the system, as discussed above.

Upon consideration of the record and determinations above on this difficult issue, the Commission finds that the increase applicable to Viscofan should be reduced to 12.5%. This rate is approximately half way between the above-referenced 20% increase and the “less than 5%” increase suggested by Aqua. The 12.5% increase is also fairly close to the alternative rate increase proposed by Staff -- which was intended to recover the same percentage of Viscofan’s cost of service as was approved in Docket No. 04-0442 in the event the Commission decided to reduce the 20% increase. It is also close to the 13.75% increase proposed by Aqua in the original proceeding, especially when considering that the 13.75% was based on Aqua’s proposed revenue requirement.

In the Commission’s view, lowering the increase to 12.5% will produce rates that should give Viscofan an incentive to remain on the Aqua system — which would benefit other customers because Viscofan provides a large contribution toward costs that would otherwise be borne by other customers — while limiting, at least to the extent possible, any further shifting of revenue responsibility to other customers that occurs whenever rates are set below calculated cost of service.

As noted above, the AG recommends that no changes be made to the rates previously approved in this docket, and that instead the Commission should “require

Aqua to attempt to negotiate a long-term contract with Viscofan to address the costs and risks associated with serving Viscofan.”

While a longer contract term, such as 10 years, could have benefits, the AG’s proposal does not explain how the rates themselves would be set in such a contract between Aqua and Viscofan. Currently, the rates applicable to Viscofan are not actually set by the parties to the four-year contract. Rather, they are set in Commission rate orders. Given the unknowns, and other circumstances, it is difficult to see how the record would support an assumption that Viscofan would view a 10-year contract as a viable alternative to constructing its own system.

In any event, the Commission again finds that the record supports a continuation of the four-year term contained in the provisions of Aqua’s current tariffs. The AG’s proposal will not be adopted.

As indicated above, the Commission finds that the rate increase for Viscofan should be reduced to 12.5%. The revenue shortfall created by this change should be allocated to other customer classes – through usage charges -- in the consolidated division of which the Vermilion district is now a part.

Findings and Ordering Paragraphs

The Commission, having considered the entire record, is of the opinion and finds that:

- (1) Aqua is a corporation engaged in the business of furnishing water and sanitary sewer service to the public in portions of the State of Illinois and is a public utility within the meaning of Section 3-105 of the Act;
- (2) the Commission has jurisdiction over Aqua and the subject matter of this proceeding;
- (3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings herein;
- (4) new tariff sheets implementing the findings and determinations in this order shall be filed as ordered below, and shall reflect an effective date not less than five working days after the date of filing, with the tariff sheets to be corrected within that time period if necessary.

IT IS THEREFORE ORDERED that Aqua Illinois, Inc. is authorized and directed to file new tariff sheets with supporting workpapers, to the extent necessary to effectuate the findings and determinations in this Order, applicable to service furnished on and after the effective date of said tariff sheets.

Proposed Order on rehearing

IT IS FURTHER ORDERED that upon the effective date of the new tariff sheets to be filed pursuant to this Order, the tariff sheets presently in effect for water service which are replaced thereby, are hereby permanently canceled and annulled.

IT IS FURTHER ORDERED that except as specifically modified herein, the Order entered February 16, 2012 remains in full effect and applicability as written.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED: July 23, 2012.

Larry M. Jones
Administrative Law Judge